

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 7073 – SB 7027**

August 22, 2023

**SUMMARY OF BILL:** Extends the definition of a child to include an individual under the age of 24 for the purpose of remaining under juvenile court jurisdiction while serving a sentence as a serious youthful offender. Defines serious youthful offender as a juvenile who commits certain criminal offenses, or a juvenile who has been charged with escape from a confined youth development center.

Authorizes the juvenile court to impose a sentence to last until the serious youthful offender's 19<sup>th</sup> birthday. Requires the juvenile court to impose an additional sentence to be served under custody of the Department of Corrections (DOC) after the serious youthful offender turns 19 until on or before the offender's 24<sup>th</sup> birthday, depending on the class of felony. Authorizes the court to stay the additional sentencing, so long as a hearing is conducted within four months of the serious youthful offender's 19<sup>th</sup> birthday, to determine if the additional sentence under DOC is necessary.

Requires a juvenile aged 16 or older to be held and tried as an adult if they are charged with first-degree murder, second-degree murder, or attempt of first- or second-degree murder, or if they are charged with certain offenses committed with a deadly weapon after having previously been adjudicated delinquent for specific offenses. Requires a juvenile aged 17 or older be held and tried as an adult if they are charged with an offense other than first-degree murder, second-degree murder, or attempt of first- or second-degree murder.

Requires the court to provide reasonable notice of the juvenile's probable cause hearing to the juvenile's custodian at least 14 days prior to the hearing. Requires a juvenile aged 16 or older who is tried and committed as an adult be housed separately from adult inmates. Authorizes the criminal court to review a juvenile court's determination that a juvenile is to be tried as an adult upon motion by either party, and that the juvenile court's ruling be stayed until the conclusion of the review.

Requires the record on appeal be filed no later than 15 days after the entry of the juvenile court's order, and that the criminal court must conduct a de novo review of records without an evidentiary hearing within 15 days of the filing of the record on appeal. Authorizes counsel for the child to serve and file a brief 15 days after the state's brief is filed with the clerk. Requires the criminal court to issue a decision within 45 days after the date on which the record is filed.

## **FISCAL IMPACT:**

### **Increase State Expenditures –**

**\$10,184,500 Incarceration**

**\$6,187,400/FY23-24/General Fund**

**\$11,685,200/FY24-25 and Subsequent Years/General Fund**

### **Increase Federal Expenditures – \$598,600/FY23-24**

**\$1,197,200/FY24-25 and Subsequent Years**

### **Assumptions:**

- Under current Tenn. Code Ann. § 37-1-137(h), a juvenile offender is able to receive time credits towards the determinate sentence imposed that are awarded for good behavior; however, the proposed legislation removes the possibility of these time credits for serious youthful offenders.
- According to information provided by the Department of Children's Services (DCS), there is an average of 82 juveniles who would be classified as serious youthful offenders annually, and who under the proposed legislation would have to remain in DCS custody on average an additional year.
- The daily rate for a child housed by the juvenile justice system is approximately \$400, or \$146,000 (\$400 x 365 days) per year.
- Due to the increase in the length of time juveniles are in their custody, there will be a recurring increase in expenditures of \$11,972,000 (\$146,000 x 82). which will be covered with:
  - 90 percent state funding, or \$10,774,800 (\$11,972,000 x 90%); and
  - 10 percent federal funding, or \$1,197,200 (\$11,972,000 x 10%).
- According to FY22-23 felony admissions to DOC, it is assumed that:
  - .68 percent of serious youthful offenders would be adjudicated delinquent of a Class A felony, which under the proposed legislation would result in an additional 4 years of incarceration, meaning there would be approximately .55 (82 x .68%) new admissions serving 4 years, or one new admission every other year to DOC;
  - 25.2 percent would be adjudicated delinquent of a Class B felony, which under the proposed legislation would result in an additional 3 years of incarceration, meaning there would be approximately 21 (82 x 25.2%) new admissions serving 3 years annually to DOC; and
  - 74.12 percent would be adjudicated delinquent of any other act listed in the proposed legislation, meaning there would be approximately 61 (82 x 74.12%) new admissions serving 1 year annually to DOC.
- For the purpose of this analysis, it is assumed that growth in Tennessee is 1.029 percent per year.

- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 4,112,300	FY24-25
\$ 7,133,100	FY25-26
\$ 10,184,500	FY26-27

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs relating to the transfer of juveniles will be \$10,184,500.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.
- It is estimated that two updated housing units will be required by TDOC in order to accommodate the increase in juvenile offenders as juvenile units have unique federal requirements that differ from other housing units, which would create a one-time increase in state expenditures of \$800,000 (\$400,000 per unit x 2 units) in FY23-24.
- In order to manage the increase of juvenile inmates, TDOC will require the following new positions:
  - 5 Correctional Counselors 3's, which will create a recurring increase in state expenditures of \$452,930 [(\$71,400 salary + \$19,186 benefits) x 5 positions]; and
  - 4 Correctional Teachers, which will create a recurring increase in state expenditures of \$457,492 [(\$91,800 salary + \$22,573 benefits) x 4 positions].
- Tennessee Code Annotated § 37-1-134(a)(1)(A) states that a court may transfer a juvenile to a criminal court if they are charged with first-degree murder, second-degree murder, or an attempt to commit first- or second-degree murder and are 14 years of age or older; the proposed legislation would require that transfer for juveniles aged 16 or older who are charged with this.
- It is assumed that there will not be a significant increase in the number of juveniles who will be required to be transferred under this new provision, and it will therefore not create a significant fiscal impact on either the juvenile or the criminal courts.
- Tennessee Code Annotated § 37-1-134(a)(3) already requires a child's custodian to be given 14 days written notice prior to a probable cause hearing; therefore, this provision of the proposed legislation can be accomplished within existing court resources.
- The courts will be able to carry out the de novo reviews without any increase in personnel or resources.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant; therefore, the proposed legislation will not significantly change state or local revenue.

- Due to the January 1, 2024 enactment date, the proposed legislation will increase state expenditure from the General Fund of:
  - \$6,187,400 [(\$10,774,800 x 50%) + \$800,000] in FY23-24; and
  - \$11,685,222 (\$10,774,800 + \$452,930 + \$457,492) in FY24-25 and subsequent years.
- Due to the January 1, 2024 enactment date, the proposed legislation will increase federal expenditures:
  - \$598,600 (\$1,197,200 x 50%) in FY23-24; and
  - \$1,197,200 in FY24-25 and subsequent years.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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